

## Exhibit 7

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

**TY CLEVENGER,**

Plaintiff,

vs.

**U.S. DEPARTMENT OF JUSTICE,  
FEDERAL BUREAU OF  
INVESTIGATION, and NATIONAL  
SECURITY AGENCY,**

Defendants

Case No. 1:18-cv-1568-WFK-LB

**FIRST AMENDED COMPLAINT**

Plaintiff Ty Clevenger (“Plaintiff”) brings this action against Defendant U.S. Department of Justice, Defendant Federal Bureau of Investigation, and Defendant National Security Agency (collectively “Defendants”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, the Plaintiff alleges as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction under 5 U.S.C. § 552 (a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district because the Plaintiff resides in Kings County, New York.

**Parties**

3. Plaintiff Ty Clevenger is an attorney licensed to practice in Texas and California. He resides in Brooklyn, New York.
4. Defendant U.S. Department of Justice (“DOJ”) is an agency of the United States Government. It has possession, custody, and control of records to which Plaintiff seeks access.

Defendant is headquartered at 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

5. Defendant Federal Bureau of Investigation (“FBI”) is an agency of the United States Government within DOJ. It has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 935 Pennsylvania Avenue, NW, Washington, D.C. 20535-0001.

6. Defendant National Security Agency (“NSA”) is an agency of the United States Government. It has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 9800 Savage Rd., Suite 6272, Ft. George G. Meade, MD 20755-6000.

#### **Statement of Facts**

7. On March 7, 2017, the Plaintiff submitted a FOIA request to DOJ and FBI that sought, among other things, the following information:

All other documents and correspondence exchanged between (1) the Department of Justice or any component (including the FBI) and (2) Beth Wilkinson (or any other attorney or agent working with her) regarding Cheryl Mills and Heather Samuelson.

All documents and correspondence that were exchanged between (1) the Department of Justice or any component (including the FBI) and (2) Congress (or any of its committees) regarding any investigation Hillary Rodham Clinton's emails or email system. This request includes, but is not limited to, documents and correspondence exchanged between the Department and Congress regarding whether David Kendall, Cheryl Mills, and/or Heather Samuelson mishandled or destroyed Mrs. Clinton's emails.

All internal Department of Justice correspondence (including FBI correspondence) regarding my previous requests for information about Ms. Wilkinson (sometimes incorrectly identified as “Beth Wilkerson”), Ms. Mills, and Ms. Samuelson, particularly the requests identified as DOJ-2017-002113 and EMRUFOIA122116-1, as well as FBI Tracking No. 1365424-000.

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All documents or correspondence resulting from the September 6, 2016 referral from Chairman Jason Chaffetz to U.S. Attorney Channing Phillips of the District of Columbia (a true and correct copy of that referral can be found at <https://oversight.house.gov/wp-content/uploads/2016/09/US-Attorney-for-District-of-Columbia-Letter.pdf>). This request

includes, but is not limited to, (1) any evidence gathered by the FBI or other investigators working for the Department, and (2) any correspondence or records indicating whether the referral is still under investigation.

As of this date, the FBI has produced a small number of documents pertaining to Ms. Wilkinson, but it has not produced other relevant correspondence that she references therein. Otherwise, the FBI and DOJ have not produced responsive documents.

8. Also on March 7, 2017, the Plaintiff submitted a FOIA request to FBI in which he attached an October 5, 2016 letter from four Congressional committee chairmen to then-Attorney General Loretta Lynch. “I wish to see all documents and records indicating whether the laptops referenced in that letter (*i.e.*, laptops belonging to Cheryl Mills and/or Heather Samuelson) are still in the possession of the FBI or whether they were destroyed,” the Plaintiff wrote. “I also wish to see all data that was extracted from those laptops.” Thus far, the FBI has not responded to that request for documents.

9. On September 1, 2017, the Plaintiff submitted a FOIA request to DOJ and FBI that read as follows:

I request the opportunity to view all records and correspondence pertaining to Seth Conrad Rich (DOB: January 3, 1989), who was murdered in the District of Columbia on or about July 10, 2016. This request includes, but is not limited to, any records or correspondence resulting from any investigation of his murder.

The Plaintiff submitted the FOIA request electronically and/or via facsimile to the following specific components of DOJ: the FBI, the Executive Office for U.S. Attorneys (“EOUSA”), the Criminal Division, and the Office of Information Policy (“OIP”).

10. In a September 13, 2017 letter, the EOUSA indicated that it would not release records without proof of Mr. Rich's death. The Plaintiff immediately filed an administrative appeal, and OIP reversed EOUSA's decision on October 2, 2017, directing EOUSA to search for responsive records. Thus far, EOUSA has not produced any responsive records.

11. In a September 19, 2017 letter, the FBI indicated that its search produced no responsive records:

Based on the information you provided, we conducted a search of the Central Records System. We were unable to identify main file records responsive to the FOIA. If you have additional information pertaining to the subject that you believe was of investigative interest to the Bureau, please provide us the details and we will conduct an additional search.

12. On September 30, 2017, the Plaintiff filed an electronic appeal of the FBI's decision with OPI, writing as follows:

The September 19, 2017 letter that I received from the FBI indicates that it only searched the "Central Records System" and that it was unable to identify "main file records" responsive to the FOIA. My request was not limited to the Central Records System nor to main file records. Any responsive records likely would be found in emails, hard copy documents, and other files in the FBI's Washington Field Office. In my experience, the FBI often does not search email accounts in response to FOIA requests, and it appears that it did not search email records in this instance. The FBI should be directed to conduct a thorough search, to include emails and other records in the Washington Field Office.

The administrative appeal was denied on November 9, 2017.

13. On October 1, 2017, the Plaintiff submitted a FOIA request that sought the following information from the FBI regarding non-disclosure agreements ("NDA" or "NDAs"):

1. Since January 1, 2010, all NDAs between the FBI and any other government entity that prohibit the release of information to Congress, any of its agencies, or any Freedom of Information Act requestors.
2. All records, documents, correspondence, or other materials sent to Senator Grassley or his representatives in response to his September 25, 2017 letter.
3. All emails, printed correspondence or other records indicating who was involved in drafting the NDA or NDAs referenced in Senator Grassley's September 25, 2017 letter.

The FBI refused to search for documents in the first category on the grounds that it was too vague, so the Plaintiff filed a timely administrative appeal, which is still pending. The FBI has not produced any documents responsive to the second and third categories identified above.

14. On October 10, 2017, the Plaintiff filed a FOIA request with NSA that sought, among

other things, the following:

All correspondence received from or sent to any member of Congress (or anyone representing a member of Congress or Congressional committee) regarding Seth Rich, Julian Assange, WikiLeaks, Kim Dotcom, Aaron Rich, Shawn Lucas, Kelsey Mulka, Imran Awan, Abid Awan, Jamal Awan, Hina Alvi, and/or Rao Abbas.

In a letter dated February 14, 2018, the NSA indicated that it searched for responsive records but was still reviewing the records to determine whether to release them. As of the date of this Complaint, NSA has failed to: (1) produce the requested records or demonstrate that the requested records are lawfully exempt from production; or (2) notify the Plaintiff of the scope of any responsive records NSA intends to produce or withhold and the reasons for any withholdings.

**Count 1**

**(Violation of FOIA, 5 U.S.C. § 552)**

15. All prior paragraphs are incorporated herein by reference.
16. The Plaintiff is being irreparably harmed by the Defendants' violations of FOIA, and the Plaintiff will continue to be irreparably harmed unless the Defendants are compelled to comply with FOIA.

**Request for Relief**

17. The Plaintiff respectfully requests that the Court: (1) order the Defendants to conduct a search for any and all records responsive to the Plaintiff's FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of records responsive to the Plaintiff's FOIA request; (2) order the Defendants to produce, by a date certain, any and all non-exempt records responsive to the Plaintiff's FOIA requests and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin the Defendants from continuing to withhold any and all non-exempt records responsive to the Plaintiff's FOIA

requests; (4) grant the Plaintiff an award of litigation costs reasonably incurred in this action pursuant to 5 U.S.C. §552(a)(4)(E); and (5) grant the Plaintiff such other relief as the Court deems just and proper.

Respectfully submitted,

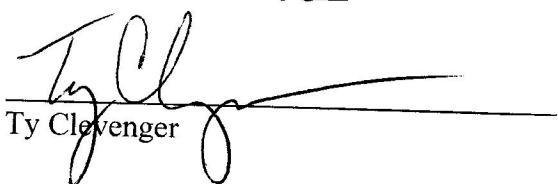


Ty Clevenger  
Texas Bar No. 24034380  
P.O. Box 20753  
Brooklyn, New York 11202-0753  
(979) 985-5289  
(979) 530-9523 (fax)  
*tyclevenger@yahoo.com*

PLAINTIFF PRO SE

**CERTIFICATE OF SERVICE**

I certify that on June 6, 2018 I emailed a copy of the foregoing document to Kathleen A. Mahoney, counsel for the Defendants, at [kathleen.mahoney@usdoj.gov](mailto:kathleen.mahoney@usdoj.gov).



Ty Clevenger